

(S E R V E D )  
( FEBRUARY 1, 1988 )  
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

February 1, 1988

NO. 88-3

NORTH CAROLINA STATE PORTS AUTHORITY

v.

THE 8900 LINES, ET AL.

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COMPLAINT DISMISSED

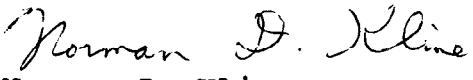
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Complainant has filed a request for leave to withdraw its complaint. Complainant states that it had filed its complaint in response to a surcharge applicable to the port of Wilmington, North Carolina, which surcharge respondents had filed effective October 1, 1987, but later canceled, effective January 1, 1988. However, complainant was unaware of the cancellation at the time it submitted its complaint and states that the cancellation effects the primary purpose of the complaint so that no purpose would be served by continuing the proceeding.

The instant proceeding marks the third complaint filed against the now cancelled surcharges. As in the other two cases

(Docket Nos. 87-20 and 87-27, Delaware River Port Authority et al. v. The 8900 Lines), cancellation of the surcharges in question has removed the reason fro the complaint, and the parties no longer wish to continue litigation. By separate notice, the complaints in those other proceedings are being dismissed. Furthermore, because respondents have not yet filed an answer in this case, according to the federal rules of civil procedure (Rule 41(a)(1)), which rules the Commission follows absent a specific Commission rule, a complainant has the right to withdraw its complaint without the permission of the court. See Amtrol, Inc. v. U.S. Atlantic-North Europe Conference et al., 23 SRR 1320, 1321 (ALJ; F.M.C. notice of finality, September 4, 1986).

Accordingly, the complaint is dismissed and the proceeding is terminated.

  
Norman D. Kline  
Administrative Law Judge

(S E R V E D)  
( March 9, 1988 )  
(FEDERAL MARITIME COMMISSION)

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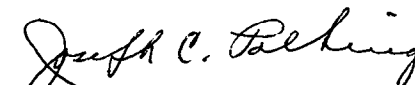
THE 8900 LINES, ET AL.

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NOTICE

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Notice is given that no appeal has been taken to the February 1, 1988, dismissal of the complaint in this proceeding and the time within which the Commission could determine to review has expired. No such determination has been made and accordingly, the dismissal has become administratively final.

  
Joseph C. Polking  
Secretary